

Example: During all of 1983, claimant's principal residence is part of a farm which the claimant owns. Claimant's farm is located on 40 acres of land. Claimant's 1983 property tax bill covering the homestead itself includes the following information.

Improvements	\$40,000
Land	10,000
Total	<u>\$50,000</u>

Property Taxes Due \$ 1,000

The property tax bill of \$1,000 includes the homestead, a barn and 40 acres of land. (The barn is located on the 35 acres of land adjoining the homestead.)

One method for computing property taxes for 1983 for homestead credit would be as follows:

1. Allowable property taxes for improvements.

$$\frac{\$40,000 \text{ Valuation of Improve. on the 35 acres}}{\$50,000 \text{ Total Valuation}} \times \$1,000 \text{ total property taxes} = \$800$$

2. Property taxes for land.

$$\$10,000 \text{ Valuation of 40 acres} \times \frac{35 \text{ acres}}{40 \text{ acres}} = \$8,750 \text{ Valuation of 35 acres}$$

$$\frac{\$8,750 \text{ Valuation of 35 acres}}{\$50,000 \text{ Total Valuation}} \times \$1,000 \text{ total property taxes} = \$175$$

3. Total property taxes for homestead credit.

Improvements	\$ 800.00
Land	175.00
Total	<u>\$ 975.50</u>

For 1982, claimants with farms were allowed to claim the property taxes on the homestead and the first 120 acres adjoining it, including all improvements on the 120 acres.

6. Homestead Credit Formula Changed (Amend s. 71.09(7)(gq)(intro.) and create 71.09(7)(gr), effective for 1983 homestead claims (filed in 1984) and subsequent years' claims.)

Claimants with household income of \$7,000 (prior law was \$6,000) or less will receive 80% of their property taxes accrued and/or rent constituting property taxes accrued. If household income is more than \$7,000, the credit will be 80% of the amount by which property taxes and/or rent constituting property taxes accrued exceed 12.94% (prior law was 12.5%) of household income exceeding \$7,000.

D. FARMLAND PRESERVATION CREDIT

1. Definition of "Agricultural Use" Changes (Amend s. 91.01(1), effective for claims filed for the 1983 tax year and subsequent years.)

The definition of "agricultural use" will include placing land in federal programs in return for payments in kind (PIK). (Note: One of the conditions that must be met to qualify for a farmland preservation tax credit is that the farmland must have produced at least \$6,000 of gross farm profits from "agricultural use" during the tax year or at least \$18,000 in gross farm profits from "agricultural use" during the tax year and two years immediately preceding the tax year.)

2. Add-Back for Depreciation (Amend s. 71.09(11)(a)6.a and b, effective for claims filed for the 1983 tax year and subsequent years.)

In computing household income, an individual or a corporate claimant will be allowed to deduct the first \$25,000 of depreciation expenses in respect to the farm. For 1982, the first \$25,000 of depreciation expenses were allowed, regardless of whether the expenses related to the farm or other property.

3. Household Income Includes Exclusion for Capital Gains, Dividends, etc. (Amend s. 71.09(7)(a)1, effective for claims filed for the 1983 tax year and subsequent years.)

The starting point for computing household income for farmland preservation credit purposes is Wisconsin adjusted gross income. The amendment to s. 71.09(7)(a)1 requires that certain items which are excluded or deducted in computing Wisconsin adjusted gross income for income tax purposes must be included in household income for farmland preservation credit purposes. These exclusion and deduction items are the same as those which will be included in household income for homestead credit purposes. See Part C.2 for a complete listing of the items involved.

(Caution: Parts D.2 and D.3 above first apply to farmland and preservation credit claims based on property taxes accrued during 1983, therefore, if the 1983 claim covers a fiscal year in which there was no accrual of 1983 property taxes, Parts D.2 and D.3 would not apply (e.g., a 1983 farmland preservation claim filed for the fiscal period August 1, 1982 to July 31, 1983 (which is a 1983 tax year) would likely be based on property taxes accrued in November or December, 1982 (rather than property taxes accrued in 1983), therefore, the provisions of Parts D.2 and D.3 would not apply to that claim filed for the 1983 tax year.)

4. Definition of "Gross Farm Profits"-Payments-In-Kind (PIK) (Amend s. 71.09(11)(a)3m, effective for claims filed for the 1983 tax year and subsequent years.)

The definition of "gross farm profits" will include the fair market value of payments-in-kind (PIK) at the time of disposition of such payments. (Note: One of the requirements to qualify for a farmland preservation credit is that farmland must produce a minimum amount of "gross farm profits".)

5. Discharge of Lien (Amend s. 91.37(4), effective July 2, 1983.)

Under certain circumstances, the owner of farmland may become responsible for paying back part or all of the credits received under the farmland preservation tax credit program. The amendment to s. 91.37(4) will provide that if after the expiration of an agreement, but prior to January 1, 1983, a farm or any portion thereof is zoned for exclusive agricultural use per the program requirements, all or any part of a lien filed for payback of credits will be discharged.

6. Soil and Water Conservation Ordinance (Create s. 91.80, effective July 2, 1983.)

A county, city, village or town will be allowed to establish a soil and water conservation ordinance which requires owners who receive zoning certificates under the farmland preservation program to farm in accordance with reasonable soil and water conservation standards. The standards will be established by a land conservation committee created by the county board. Deviations may be allowed if personnel are not available to lay out the practices or if needed practices are not economical.

E. INHERITANCE TAXES

1. Update Reference to Internal Revenue Code for Qualified Retirement Plans, Installment Payments and Power of Appointment (Amend s. 72.01(17), 72.12(4)(c)1 and 72.22(4)(a), effective for transfers because of deaths on and after August 1, 1983, except the amendment to 72.01(17) relating to power of appointment becomes effective July 2, 1983.)

The reference to the Internal Revenue Code relating to power of appointment in s. 72.01(17), qualified retirement plans in s. 72.12(4)(c)1 and installment payments in s. 72.22(4)(a) will be updated to December 31, 1982 and as amended by federal Public Laws 97-424, 97-448 and 97-473 which were enacted in 1983.

Also, s. 72.22(4)(a), which pertains to installment payments, will include a reference to Public Law 98-4 relating to the income tax treatment of agriculture commodities received under the 1983 payment-in-kind program.

F. SALES/USE TAXES

1. Service Providers-Purchasing Property as a Consumer or for Resale (Create s. 77.51(4)(L), 77.51(7)(e) and (f) and 77.51(24)(b) and (29), renumber 77.51(24) to 77.51(24)(a) and amend 77.51(24)(a), effective September 1, 1983.)

(a) Services which are taxable under s. 77.52(2):

- (1) Services taxable under s. 77.52(2)(a)7 (photographic services), s. 77.52(2)(a)10 (repair, alteration, fitting, cleaning, painting, etc., of tangible personal property), s. 77.52(2)(a)11 (fabricating, processing, printing or imprinting), and s. 77.52(2)(a)20 (landscaping services):

All tangible personal property physically transferred to the customer in conjunction with the selling, performing or furnishing the service is considered a sale of tangible personal property. This means that such property can be purchased for resale by those service providers described in s. 77.52(2)(a)(7), (10), (11) and (20). However, the total charge for the service, including the charge related to tangible personal property transferred to the customer, is subject to the sales/use tax.

Examples: (A) Person X repairs a furnace for Person Y for \$50, which includes the replacement of a furnace part. Person X may purchase the furnace part tax-free by giving a resale certificate to the seller of the part because the part is physically transferred to the customer. The total charge of \$50 by Person X to Person Y is subject to the 5% tax (\$2.50 tax) including any charge related to the furnace part.

(B) A photographer purchases mounts, frames and paper for use in finished photographs which are transferred to customers. Such mounts, frames and paper may be purchased without tax for resale by the photographer.

(C) An operator of a landscaping service delivers and levels topsoil, then installs sod on the topsoil for a customer in providing a taxable landscaping service. This person may purchase the topsoil and sod without tax for resale.

- (2) All other services which are taxable under s. 77.52(2)(a) (i.e., lodging (s. 77.52(2)(a)1), admissions to amusement, entertainment, etc. (s. 77.52(2)(a)2), telegraph services (s. 77.52(2)(a)3), telephone services (s. 77.52(2)(a)4.), laundry and dry cleaning (s. 77.52(2)(a)6), parking (s. 77.52(2)(a)9) and cable television services (s. 77.52(2)(a)12)): If the tangible personal property transferred by the service provider to the customer is "incidental" to the selling, performing or furnishing of the service, the service provider is considered to be the consumer of such property transferred to the customer. If the property transferred to the customer in conjunction with the service is not "incidental" to the selling, performing or furnishing of the service, the service provider is not the consumer of such property, but rather, the property transferred is considered a sale of tangible personal property separate from the sale of the service.

Examples: (A) The operator of a motel or hotel is subject to tax on its purchases of beds, dressers, tables, linens, soap and other items purchased for use in rooms provided to customers since the customers' main purpose is to obtain access to the room.

(B) A baseball team purchases tickets to admit its customers to games and promotional items to be given to certain ticketholders for specific games. The tax applies to these purchases of tickets and promotional items because the ticketholders' main purpose is to attend the ball game.

(C) A telephone company purchases telephone books which it distributes to its customers. These purchases by the telephone company are subject to the tax since the customers' main purpose is to obtain telephone service.

- (b) Services which are not taxable: If the tangible personal property transferred in conjunction with the selling, performing or furnishing of the service is "incidental" to the service, the service provider is considered the consumer of such property transferred to the customer.

If the property transferred to the customer in conjunction with the service is not "incidental" to the selling, performing or furnishing of the service, the service provider is not the consumer of such property, but rather, the property transferred is considered a sale of tangible personal property separate from the sale of the service.

Examples: (A) A person providing accounting services transfers documents, reports, forms and binders to its clients in the course of setting up an accounting system for the client. Purchases of paper, forms and binders by the service provider are taxable since the client's main purpose is to obtain the accounting service.

(B) An engineer's purchase of specialized paper, which is used to produce drawings transferred to customers, is subject to the tax because the customers' main purpose is to obtain the engineer's drafting services.

(C) A physician purchases tape which is used in providing non-taxable medical services. Such tape purchases by the physician are subject to the tax because the patients' main purpose is to obtain the medical service.

(D) A mover's purchases of containers and packing materials used in providing household goods moving services are subject to the tax because the customers' main purpose is to obtain the moving service.

- (c) Contractors and subcontractors: Except as explained in (a) and (b) above, contractors and subcontractors are still considered the consumers of tangible personal property used by them in real property construction activities in accordance with s. 77.51(18).

Example: A contractor purchases insulation, which is installed by the contractor in the ceiling of a person's plant to reduce heat loss, and topsoil for leveling the plant yard. The contractor's purchases of insulation are taxable; however, it may purchase the topsoil without tax for resale because this is used in providing a taxable landscaping service as described under (a) above.

(d) Definition of "incidental": "For purposes of s. 77.51(4)(L), (7)(e) and (f) and (24)(a), 'incidental' means depending upon or appertaining to something else as primary; something necessary, appertaining to, or depending upon another which is termed the principal; something incidental to the main purpose of the service. Tangible personal property transferred by a service provider is incidental to the service if the purchaser's main purpose or objective is to obtain the service rather than the property, even though the property may be necessary or essential to providing the service." This definition of incidental is found in s. 77.51(29), Wis. Stats.

2. Occasional Sale Standard Changed (Amend s. 77.51(10)(c), effective July 2, 1983.)

Sales of admissions or tickets to events by neighborhood associations, churches, civic groups, garden clubs, social groups and similar organizations are exempt from sales/use tax under s. 77.51(10)(c), if certain standards are met. Under prior law, as amended by 1983 Wisconsin Act 23, one of the standards was that the events could not fall on more than 9 different days within the calendar year. The new law provides that the events may not fall on more than 9 different days or "9 consecutive 24-hour periods" within the calendar year.

Section 77.51(10)(c) now reads as follows: "Sales of admissions or tickets by a neighborhood association, church, civic group, garden club, social club or similar organization to an event, including a meal, not involving professional entertainment, conducted by such organization, when such organization is not engaged in a trade or business and not otherwise required to have a seller's permit, and when no more than 3 such events were conducted by the organization in the previous calendar year and no more than 3 are anticipated during the current calendar year and such events do not fall on more than 9 different days or 9 consecutive 24-hour periods within the calendar year." (Underlined words are the Budget Bill amendment to s. 77.51(10)(c).)

3. Definition of "Enjoyment" (Rename s. 77.51(15) to 77.51(15)(a), create s. 77.51(15)(b), effective for property shipped into Wisconsin on or after September 1, 1983.)

Since 1969 the sales/use tax law has imposed a use tax on the "storage, use or other consumption in this state of tangible personal property or taxable service ...". (s. 77.53(1)) "Use" is defined in s. 77.51(15) to include "the exercise of any right or power over tangible personal property or taxable services incident to the ownership, possession or enjoyment of the property or services ..." (underlining supplied).

The new law creates s. 77.51(15)(b) to define "enjoyment" to include a purchaser's right to direct the disposition of property, whether or not the purchaser has possession of the property. "Enjoyment" also includes, but is not limited to, having shipped into this state by an out-of-state supplier printed material which is designed to promote the sale of property or services, or which is otherwise related to the business activities, of the purchaser of the printed material or printing service.

Example: A Wisconsin department store contracts for \$100,000 with an out-of-state printer to have the printer produce catalogs and advertising flyers. The printer will mail the catalogs and flyers directly to Wisconsin residents, based upon a mailing list furnished by the Wisconsin department store. As a result of the creation of s. 77.51(15)(b), the Wisconsin department store will be liable for Wisconsin use tax of \$5,000 on the payment of \$100,000 to the out-of-state printer.

4. Clarify Tax Treatment of Exempt Entities (Amend s. 77.54(9a)(intro.), effective September 1, 1983.)

The exemption language in s. 77.54(9a)(intro.) is amended to clarify that only purchases by exempt entities under s. 77.54(9a)(a),(b),(c), (d),(e) and (f) are not subject to the tax. Sales by such entities continue to be taxable.

5. Tax the Sale of Raffle Contest Tickets (Amend s. 77.51(10)(a), 77.52(2)(a)2 and 77.54(7), effective September 1, 1983.)

The sale of raffle contest tickets will be subject to the sales tax. Also, the occasional sales exemption in s. 77.51(10)(a) and s. 77.54(7) does not apply to the sale of raffle contest tickets.

6. Interest on Sales/Use Tax Refunds (Amend s. 77.60(1)(a), effective for refunds certified on or after September 1, 1983.)

Interest on sales/use tax refunds will bear interest to the date on which the refund is certified on the refund rolls. Prior to this amendment to s. 77.60(1)(a), refunds accrued interest until the first day of the month following the month in which the taxes were refunded.

7. Use of Sampling in Sales/Use Tax Audits (Amend s. 77.59(2), effective July 2, 1983.)

In field auditing for sales/use tax under s. 77.59(2), the Department of Revenue's determination of the tax required to be paid may be made on the basis of sampling, whether or not the taxpayer being audited has complete records of transactions and whether or not the taxpayer being audited consents to sampling.

8. Exempt Ingredients and Components of Shoppers Guides, Newspapers and Periodicals (Create s. 77.54(2m), effective July 2, 1983.)

A sales/use tax exemption is provided for tangible personal property or services that become an ingredient or component of shoppers guides, newspapers or periodicals, or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers or periodicals. The exemption applies regardless of whether or not the shoppers guides, newspapers or periodicals are transferred to the recipient for a charge. This exemption in s. 77.54(2m) does not apply to advertising supplements printed by printers other than the newspaper in which they are inserted.

Example 1: Publisher A publishes a shoppers guide and distributes it without charge. It buys paper for \$200 which it gives to Printer B who

will print the shoppers guide for \$400 on Publisher A's paper. The \$200 purchase of paper now is exempt from tax. The printing service of \$400 by Printer B, which was a taxable service under prior law, also now is exempt under s. 77.54(2m).

Example 2: Assume the same facts as in Example 1, except that Publisher A (rather than Printer B) printed the shoppers guides. The \$200 purchase of paper now is exempt under s. 77.54(2m).

9. Exempt Certain Oxygen Equipment (Create s. 77.54(14m), effective September 1, 1983.)

A sales/use tax exemption is provided for equipment used to administer oxygen for medical purposes by a person who has a prescription for oxygen written by a person authorized to prescribe oxygen.

10. Eliminate Exemption for Non-Subscription Sales of Periodicals (Amend s.77.54(15), effective September 1, 1983.)

Under prior law, all sales of periodicals regularly issued at average intervals of 3 months or less were exempt from tax. Beginning September 1, 1983, the new law provides that all sales of periodicals not sold by subscription will be taxable, regardless of the interval with which they are issued. For example, magazines sold from the magazine rack of a store will now be taxable, regardless of whether they are issued at weekly, monthly, quarterly or other time intervals.

The tax treatment of periodicals sold by subscription has not changed, that is, such sales continue to be taxable only if the periodicals are regularly issued at average intervals of more than 3 months.

11. Definition of "Manufacturing" (Re-number s. 77.51(27) to s. 77.51(27)(intro.) and amend s. 77.51(27)(intro.), create s. 77.51(27)(a) to (c), effective for machines, specific processing equipment and repair or replacement of such machines and equipment acquired on and after September 1, 1983.)

For purposes of the sales/use tax law in Chapter 77, "manufacturing" includes:

- Crushing, washing, grading and blending sand, rock, gravel and other minerals.
- Ore dressing, including the mechanical preparation, by crushing and other processes and the concentration, by floatation and other processes, of ore, and beneficiation, including but not limited to the preparation of ore for smelting.
- Mixing and processing if performed in mobile units mounted on trucks or trailers.

12. Definition of "Newspaper" (Create s. 77.51(30), effective July 2, 1983.)

For the purposes of the sales/use tax law in Chapter 77, "newspaper" is defined as follows:

"In this chapter 'newspaper' means those publications which are commonly understood to be newspapers and which are printed and distributed periodically at daily, weekly or other short intervals for the dissemination of current news and information of a general character and of a general interest to the public. In addition, any publication which qualifies as a newspaper under s. 985.03(1) is a newspaper. "Newspaper" also includes advertising supplements if they are printed by a newspaper and distributed as a component part of one of that newspaper's publications or if they are printed by a newspaper or a commercial printer and sold to a newspaper for inclusion in publications of that newspaper. A "newspaper" does not include handbills, circulars, flyers, or the like, advertising supplements not described in this subsection which are distributed with a newspaper, nor any publication which is issued to supply information on certain subjects of interest to particular groups, unless such publication otherwise qualifies as a newspaper within this subsection. In this subsection, advertising is not considered news of a general character and of a general interest."

G. MOTOR FUEL, LIQUOR, BEER, WINE, CIGARETTE AND TOBACCO PRODUCTS TAXES

1. Tax Rate Increase On Motor Fuel and Special Fuel (Amend s. 78.01(1), 78.14, 78.40(1), effective August 1, 1983.)

The excise tax rate on motor vehicle fuels will be increased from 13¢ to 15¢ per gallon for the period August 1, 1983 through June 30, 1984 and to 16¢ per gallon for the period July 1, 1984 through March 31, 1985. The new tax rate applies to motor fuel (gasoline, gasohol) and special fuels (diesel fuel, propane). A floor tax will be imposed on all motor fuel inventory held for sale or resale on the effective dates of the increases.

2. Annual Adjustment of Motor Vehicle Fuel Tax Rate (Create s. 78.015, 78.405, new adjusted rate effective the April 1 after the calculation.)

Beginning in 1985, the motor vehicle fuel tax rate shall be recomputed on or before April 1 of each year to reflect changes in fuel consumption and in the cost of highway maintenance. The new tax rate shall be rounded to the nearest .1 cent and shall apply to motor fuel (gasoline, gasohol) and special fuel (diesel fuel, propane). The effective date of the new tax rate shall be the April 1 after the calculation. A floor tax will be imposed on all motor fuel inventory held for sale or resale on the effective date of a tax rate increase.

3. Motor Fuel Tax Imposed On First Sale (Amend s. 78.07(1)(b), effective July 2, 1983.)

Motor fuel tax will be paid by the first licensed wholesaler receiving motor fuel from a Wisconsin terminal.

Prior to this law change, the motor fuel tax was paid by a licensed wholesaler when the product was unloaded into the wholesaler's storage facilities or delivered into the storage facilities of one of the wholesaler's customers. For example, if motor fuel was withdrawn from a terminal and sold to licensee A and licensee A then sold it licensee B, the tax was paid by licensee B.